

Notice of Allowability	Application No.	Applicant(s)	
	09/771,333	CONRATH, BARTLEY C.	
	Examiner	Art Unit	
	Zachary A. Davis	2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Request for Continued Examination and amendment received 07 March 2006.
2. ☒ The allowed claim(s) is/are 1-22.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date ____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date ____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other ____. |

EXAMINER'S COMMENT

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07 March 2006 has been entered.

2. By the above submission, Claims 1, 5, 14, 18, and 20-22 have been amended. No claims have been added or canceled. Claims 1-22 are currently pending in the present application.

Response to Amendment

3. The declaration under 37 CFR 1.132 filed 07 March 2006 is insufficient to overcome the rejection of claims 1-22 based upon a failure to comply with the written description requirement under 35 U.S.C. 112, first paragraph, and is further insufficient to overcome the rejection of Claims 1-8 and 11-21 under 35 U.S.C. 102(a) and (e) as anticipated by Teng et al, US Patent 5930473, and the rejection of Claims 9, 10, and 22

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under 35 U.S.C. 103(a) as unpatentable over Teng in view of Dean et al, US Patent 6223292, as set forth in the last Office action because:

The declaration refers only to the system described in the above referenced application and not to the individual claims of the application. Thus, there is no showing that the objective evidence is commensurate in scope with the claims. Further, an affidavit or declaration under 37 CFR 1.132 is generally not appropriate evidence to present to overcome rejections under 35 U.S.C. 112, first paragraph, with regards to the written description requirement; although, such an affidavit or declaration can be appropriate to show sufficiency of disclosure (i.e. enablement) under 35 U.S.C. 112, first paragraph. Additionally, an affidavit or declaration under 37 CFR 1.132 is also generally not appropriate evidence to present to overcome anticipation rejections under 35 U.S.C. 102; however, such an affidavit or declaration can be appropriate to show objective evidence of secondary considerations to prove nonobviousness under 35 U.S.C. 103. See MPEP § 716.

The Examiner further notes that objective evidence, to be of probative value, must be supported by actual proof. MPEP § 716.01(c)I. There are several statements in the declaration that do not cite any evidence, for example in the specification or the references, as proof, noting the first section of paragraph 5, the end of paragraph 7, the last sentence of paragraph 8, and paragraphs 11 and 12 in their entirety. Further, opinion evidence on the ultimate legal conclusion at issue is not entitled to consideration. Finally, an affidavit or declaration by the Applicant, although not

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disregarded, is considered to be less persuasive than that of a disinterested person.

See MPEP § 716.01(c)III.

Claim Rejections - 35 USC § 112

4. The rejection of Claims 1-22 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement and the objection to the specification as failing to provide proper antecedent basis for the claimed subject matter are withdrawn in light of the amendments to the claims and the clarifications set forth in the present response. The Examiner thanks Applicant for clarifying and clearly pointing out on the record the appropriate written description for Viewer control of data transmission “without intervention” by the Mediator (noting page 9 of the present response).

Response to Arguments

5. Applicant's arguments, see pages 11-15 of the present response, filed 07 March 2006, with respect to the rejection of Claims 1-8 and 11-21 under 35 U.S.C. 102(a) and (e) as anticipated by Teng et al, US Patent 5930473, and the rejection of Claims 9, 10, and 22 under 35 U.S.C. 103(a) as unpatentable over Teng in view of Dean et al, US Patent 6223292, have been fully considered and are persuasive. The rejections of Claims 1-22 have been withdrawn.

Allowable Subject Matter

6. Claims 1-22 are allowed.
7. The following is an examiner's statement of reasons for allowance:

Independent Claims 1, 14, 20, and 21 are directed to systems and methods for point to point data streaming over a network, in which a sender generates streaming data (e.g. video) from a target; at least one viewer monitors the target and controls and views the streaming data; and a mediator authenticates the viewer(s) and sender, transmits session keys for establishing a point-to-point connection between the viewer and sender, and then does not intervene further once the connection has been established while data is streamed from the sender. The closest prior art, Teng, also discloses a sender generating streaming audio/visual data and a viewer monitoring and viewing the streaming data. Teng further discloses a mediator (or server) that authenticates the viewer and sender and negotiates the connection between the sender and viewer. However, Teng does not explicitly disclose that the mediator does not intervene in the control of the streaming data once the connection has been established. Therefore, the claims are allowable over the cited prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Long et al, US Patent 5550982, was cited in Applicant's present response.
- b. Cave et al, US Patent 6996094, discloses a system for redirection of media streams in which streams are transmitted directly between devices; however, in contrast to the present invention, a control server still directs the streams.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zachary A. Davis whose telephone number is (571) 272-3870. The examiner can normally be reached on weekdays 8:30-6:00, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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